RESOLUTION 86 of 2020

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK, AUTHORIZING A COPY OF THE LEGISLATION FOR THE PROPOSEED CHANGES TO THE ZONING CODE OF THE CITY OF KINGSTON BE REFERRED FOR COMMENT TO THE CITY OF KINGSTON PLANNING BOARD, ULSTER COUNTY PLANNING BOARD AND THE HISTORIC LANDMARKS PRESERVATION COMMISSION

Sponsored By:

Laws & Rules Committee: Alderman: Ventura

Morell, O'Reilly, Scott-Childress, Tallerman,

Worthington

WHEREAS, a request has been made for proposed changes to the Zoning Code of the City of Kingston as annexed hereto.

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK AS FOLLOWS:

SECTION 1. That the City of Kingston Common Council hereby refers the annexed proposed changes to the Zoning Code of the City of Kingston to the City of Kingston Planning Board, Ulster County Planning Board and the Historic Landmarks Preservation Commission for comments.

SECTION 2. This resolution shall take effect immediately.

Submitted to the Mayor this 6 day of	Approved by the Mayor this 6th day of
May , 2020	, 2020
- Heith	\$ 2
Elisa Tinti, City Clerk	Steven T. Noble, Mayor
Adopted by Council on	, 2020

1- Amend section 405-3 "Definitions" to include

Affordable Housing Unit

A dwelling unit available at a cost of no more than 30% of the gross household income of households at or below 80% of the Ulster County Median Income.

Qualified Affordable Housing Unit

An individual or family with household incomes that do not exceed 80% of the median income with adjustments for household size.

- 2- Renumber current paragraph 405-5 into 405 (A)
- 3- Renumber 405-8 as 405 (B)
- 4- Adopt new 405-8 "Affordable Housing"
 - (A) The Planning Board shall deny site plan approval for development if the applicant does not comply, at a minimum, with the following requirements for affordable housing.
 - (1) In any [ADD "new development or renovation of an existing structure"] development that includes five or more overall housing units, of the five or more overall housing units, 10% or more of those units shall be dedicated to affordable housing.
 - (2) The rental cost of affordable housing units will be calculated as not to exceed 30% of a household's income.
 - (3) The maximum income for a household to occupy an affordable housing unit will be 80% of the Ulster County median income, with adjustments for family size and shall be updated yearly.
 - (4) Affordable housing units shall be dispersed throughout the proposed housing development and shall be indistinguishable from market rate units in design, appearance, construction, and quality of materials.
 - (5) Affordable housing units shall be phased in during any build-out period. Such units shall be provided coincident to the development of market-rate apartments.
 - (B) Affordable housing units shall continue to comply with the criteria set forth herein for the length of time that the building in question contains residential units.
- (C) Final choice of the tenants to occupy the affordable housing units lies

(c) The third purpose is to encourage the development of affordable housing units in accordance with the provisions of Section 405-8.

B. Uses permitted by Right.

- (1) The adaptive reuse of existing commercial and industrial buildings to include rental multifamily housing and which encourage mixed use, mixed income, pedestrian neighborhoods.
- (2) The new construction of buildings to include rental multifamily housing and which encourage mixed use, mixed income, pedestrian neighborhoods.

C. Development Standards.

With regard to both adaptive reuses of buildings and new construction, residential uses above retail or commercial uses should be encouraged and the safety, comfort, and interests of pedestrians should be integrated into all site plans.

In the review of all site plans in the Mixed Use Overlay Districts, the following are to be considered as furthering the safety, comfort and interests of pedestrians.

- (1) Street level building spaces are limited to commercial activities with residential spaces allowed at the second or above floors.
- (2) Primary entrances of buildings face a street or small park.
- (3) Sheltering elements and/or shade trees are included.
- (4) An appropriate lighting-plan.
- (5) Pedestrian connections between buildings and streets, between buildings and through parking lots are to clearly established, maintained, and reinforced.
- (6) Parking areas do not dominate the development. In this regard, the screening of parking lots from the streets and making parking lots cooler shall be encouraged.

with the owners of the property or their representatives.

- (D) Prior to the entry of an agreement to rent an affordable housing unit, and throughout the tenancy, property owners are required to secure and maintain current documentation which establishes the eligibility of the potential tenant for said affordable housing unit.
- (E) Such documentation shall include written verification of income. Continued eligibility shall be monitored and tenants shall be required to submit documentation on a yearly basis throughout the occupancy.
- (F) Property owners shall make all documents and records outlined herein available to the City of Kingston upon request.
- (G) The City of Kingston reserves the right to review and audit these records to confirm compliance with the provisions set forth herein.
- (H) Site plan approval for all developments of five or more units shall be granted contingent upon compliance with these requirements. The failure to comply with these requirements, upon notice, may result in the revocation of site plan approval.
- (I) Any request to revoke site plan approval as the result of the failure to comply with the provisions of this section shall be made on notice to the property owner who shall be afforded a full and fair opportunity to be heard regarding the request before the City of Kingston Planning Board. Any determination of the Planning Board to revoke site plan approval for failure to comply with these provisions may be appealed in a proceeding pursuant to Article 78 of the Civil Practice Laws and Rules.

5. Replace current section 405-27.1 "Mixed Use Overlay District" with the following:

A. Purpose and Principles.

- The Mixed Use Overlay Districts are intended to implement a City of Kingston Comprehensive Plan Element for the areas known as the Stockade and Midtown Mixed Use Overlay Districts" (see attached maps).
- (2) According to the Comprehensive Plan Element, the creation of the Mixed Use Overlay Zoning District has the following underlying purposes;
 - (a) The first purpose is to provide rental multifamily housing to the present and future residents of the City of Kingston.
 - (b) The second purpose is to encourage mixed use, mixed income, pedestrian neighborhoods to the present and future residents of the City of Kingston.

Please Fill Out All	Sections - Type or Print Only		Type of Referral (Check All Those That Apply)	Parcel(s)	Informa	ation
Municipality:	City of Kingston	239-M:	1 2	Section	Block	<u>Lot</u>
Referring Board:	Zoning Board of Appeals		☐ Special Permit ☐ Area Variance			
Referring Official:	Elisa Tinti		Use Variance	Section	Block	Lot
			🔀 Amend Zoning Statute			
<u>Phone Number:</u>	845-334-3914		┌─ Amend Zoning Map	<u>Number o</u>	f Lots	
Local File #:			Comprehensive Plan			
A	Ci. (16)	239-N:	☐ Other Special Authorizations ☐ Subdivision	Project Acr	eage	7
Applicant Name:	City of Kingston	22710		FlojectAci	cage	
Project Name:	Resolution 86 of 2020		SEQRA Determination			
			▼ Type I Action	Zoning Dis	trict(s) of	Project
GMI / Heter Count	y Charter Referral Criteria:		Type II Action			-
(Choose One)	Y Charter Nerer (a) Citteria.		Unlisted Action			
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Referring Official	- Signature - Certification of Applica	tion's Corr	pleteness:			
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	Agenda	Date:		Mail o Only P	Hand D	elivery
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REFERRAL RESPONSE

ULSTER COUNTY PLANNING BOARD

General Municipal Law of New York State
Article 12B

Sections 239-1 and 239-m



Referral Number

2020043

Municipality

Kingston City

Local File Number

Resolution 86 of 2020

Referring Agency

Local Governing Body

Type of Referral

Zoning Statute Amendment

Name of Applicant

City of Kingston

Name of Project

Resolution 86 of 2020

Project Location

Mixed Use Overlay District/City Wide

Description

Zoning amendment - affordable housing and amendments to the Mixed-Use

Overlay District

UCPB Decision

Required Modifications

See Attachments

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Referral Officer

Representing the Ulster County Planning Board

Date Received

5/18/2020

Date Reviewed

6/3/2020

Form Date

6/4/2020

Status

Reviewed





Dennis Doyle, Director

RECOMMENDATION

Elisa Tinti, City Clerk City of Kingston 420 Broadway Kingston, N.Y. 12401

REFERRAL NO: 2020-043 **DATE REVIEWED:** 06/3/2020

Re: Resolution 86 of 2020 - Zoning Statute Amendment

Summary

The City has proposed to amend the City of Kingston's Zoning Statute to add a new Section 405-8 Affordable Housing and to replace 405-27.1 Mixed Use Overlay District with updated standards for that district. Section 405-8 defines affordable housing units and a qualified affordable housing unit and requires a citywide 10% set aside for all developments or renovations consisting of more than five units, as well as providing for standards for maximum rent, phasing, quality of design, and compliance with the new section. The amendments to the Mixed-Use Overlay District link directly back to the new affordable regulations by allowing for the development of new mixed-use development and renovation projects in the overlay district with a focus on providing for mixed-use, mixed-income, and a pedestrian-based neighborhood. The Mixed-Use Overlay District also ratifies the issue of providing for new construction consistent with the opinion rendered by the Zoning Enforcement Officer.

The following materials were received for review:

- Referral Form
- Draft Comprehensive Plan Volumes I and II
- Full EAF Form and EAF Narrative

Discussion

With this amendment, the City takes a significant step towards meeting goals for affordable housing established in its Comprehensive Plan. Affordable housing requirements as a percentage of newly created housing units are a well-established means to help ensure that housing affordability is not exacerbated in a community as new units are built. The practice is strongly endorsed in the County's adopted Housing Strategies Plan and highly recommended by the Ulster County Planning Board (UCPB). As such the UCPB commends and congratulates the City on the scope of the citywide requirement and following through on the recommendations in its adopted Comprehensive Plan. The following UCPB recommendations are directed at helping the City to enhance the proposed standards and to provide a greater reach to those residents in need of affordable housing. A public policy response to the City's housing costs is needed as is illustrated by the table below. Over 50% of renters in the City are in an unaffordable housing situation with nearly 30% of those severely burdened (more than 50% of income required to meet their housing needs).

Telephone: 845-340-3340 Fax: 845-340-3429

AFFORDABILITY: ALL INCOME LEVELS

	Affordable	Unaffordable	Severe	Total
RENTERS	2,225	1,345	1,495	5,065
as a % of the total number	43.9%	26.6%	29.5%	100%
OWNERS	2,965	800	565	4,330
as a % of the total number	68.5%	18.5%	13.0%	100%
COMBINED RENTERS AND OWNERS	5,190	2,145	2,060	9,395
as a % of the total number	55.3%	22.8%	21.9%	100%

Importantly, our research has shown that the greatest need for affordable rental units exists at 60% or below median household income as shown above. It is generally anticipated that the market can supply units at 80% and above. Similarly, affordable homeownership units are typically thought of as being met with incomes above 80% with communities generally considering 100% to 120% as meeting affordable housing goals. This can be seen in the data for Kingston provided for renters below that shows the greatest need below the 80% level.

Number of Renters by Affordability Level

2.4	Affordable < 30%	Unaffordable 30% to 50%	Severe > 50%	Total	% Severely Cost Burden
Household Income <= 30% HAMFI	220	275	975	1,470	66.3%
Household Income >30% to <=50% HAMFI	305	445	450	1,200	37.5%
Household Income >50% to <=80% HAMFI	505	535	70	1,110	6.3%
Household Income >80% to <=100% HAMFI	410	90	0	500	0.0%
Household Income >100% HAMFI	785	0	0	785	0.0%
Total	2,225	1,345	1,495	5,065	29.5%

1,425 Renter Households ≈< 50% HAMFI Severely Cost Burdened 2,145 Renter Households =< 50% HAMFI pay over 30% toward rent

Typically, reaching income levels below 80% AMI requires an understanding of the costs and carrying capacity of lands involved in a project. A community is well served in seeking to reach these more difficult targets in considering density bonuses, number of bedrooms, and other factors in collaboration with a developer with the 10% goal as a given.

Required Modifications

Income Levels

The City is setting the following standard:

"The maximum income for a household to occupy an affordable housing unit will be 80% of the Ulster County median income, with adjustments shall be updated yearly".

The City appears to propose using Housing and Urban Development 's (HUD) annual area income limits for low-income families earning at 80% of the area median income, by the number of persons, but this is not stated in the law. While there is a need at the 80% level, there are larger gaps at 60% of the area median family income, for renters, as noted above. In 2009 Ulster County, in conjunction with Dutchess and Orange County, completed the "Three-County Regional Housing Needs Assessment from 2006 to 2020." Those results

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were similar to the gaps we see today. The report concluded a public policy could ensure that the problem did not become worse by providing a 10% affordability requirement at the 60% AMI for renters and between 100 to 120 % for homeownership. The report also envisioned a significantly more robust housing construction market that would create these new affordable units. Just over 1,000 new rental units were anticipated by 2020 creating 100 new affordable apartments. However, UCPB has seen approximately 300 in the City through the General Municipal Law referral process since the beginning of 2010 just after the report was adopted. Additional public policy goals are needed beyond requiring a percentage of newly constructed units to be affordable.

It is most important to note that behind the discussion of AMI, percent of income, and household size, the City should have a clear understanding of the impact these factors have on affordability as it relates to needs within the City and an overall sense of what an affordable rental and housing unit should cost. Current Fair Market Rent (HUD FMR) and income required to be able to afford that rent are provided below. The monthly gap between wages in the City and the current FMR is significant.

Municipality	2BR FMR Fiscal Year 2018	Annual Wage to Afford 2BR	Hourly Wage to Afford 2BR	Renter Wage Rate 2018	Rent Affordable at Renter Wage Rate	Gap in Monthly Rent 2018	# of hours per week at Renter Wage Rate to Afford a 2BR at FMR
Kingston	\$1,155	\$46,200	\$22.21	\$13.12	\$682	-\$473	68
Ulster County	\$1,155	\$46,200	\$22.21	\$13.33	\$693	-\$462	66.7

Source: US Department of Housing and Urban Development (HUD) & 2018 American Community Survey

Looking beyond FMR, what rent levels and housing costs would be affordable given the makeup of jobs and families currently in the City? The table below provides a look at the current workforce and the City and the wages anticipated from those jobs. In crafting an inclusionary housing provision, it is critical to know who we are including.

Housing Need Scenarios for top Industries in Kingston

	Family of 1 1 income AMI \$58,600	Family of 2 1 income AMI \$67,600	Family of 3 1 income AMI \$75,400	Family of 4 2 incomes AMI \$83,700	Family of 5 2 incomes AMI \$90,400				
Industry/Job title	Accommodation and Food Services	Construction	Finance and Insurance	Education & Heath care	Retail & Health care				
Percentage of Employed Population in Community	8.90%	6.10%	6.3%	10.9% & 21.0%	11.9% & 21.0%				
Annual Average Wage	\$22,288	\$55,555	\$65,787	\$34,658 & \$43,258	\$30,475 & \$43,258				
% County AMI Adjusted for Family Size	38.0%	82.2%	87.3%	93.1%	81.6%				
Rent/Mortgage Payment Should Not Exceed	\$557	\$1,389	\$1,645	\$1,948	\$1,843				
Can Afford a Home Valued up to	\$45,000	\$154,000	\$185,000	\$221,000	\$207,000				
Median Sales Price	\$249,000	\$249,000	\$249,000	\$249,000	\$249,000				
Gap (What's Affordable – Median Sale Price)	-\$204,000	-\$95,000	-\$64,000	-\$28,000	-\$42,000				
Number of Homes for Sale on MLS at Affordable Price	0 / 65	6/65	18 / 65	31/65	26 / 65				

^{*} Based on NYS ORPS; ** Based on Ulster MLS search June 23, 2020

Required Modifications

Use of HUD Income Levels

The use of HUD or other income levels should be clearly understood by the City as to what the resulting affordable rent and housing cost levels would be. The calculation at the 80% AMI, which in 2020 was \$83,700 for Ulster County, results in an affordable rent of over \$1,600 per month. This is is not inclusionary and does nothing to create affordable units. Whereas the median household income in the City in 2018 (last available) of \$48,186 that results in rent \$1,200 is much more in line. Our overall recommendation is that in setting affordability, the City should have a clear and hopefully sophisticated code that ensures the result impacts the availability of affordable units in Kingston. The Board recommends these guideposts to help achieve that:

- Rent levels should be tied to the number of bedrooms
- Rent levels should be consistent with City jobs and income levels
- No affordable rent level should be higher than the gross median rent found in the American Community Survey (ACS) five-year average (currently \$1,054 unless it is 3 or more bedrooms;

Regarding City Income levels – the table below shows jobs within the City that make up over 47% of the workforce that would have an affordability gap based on the ACS 5 yr. average cited above.

Industry	Number	% of Total	Wage	Gap
Information	200	19.2%	\$ 41,162	\$ (25)
Administrative and support and waste management services	300	28.8%	\$ 40,750	\$ (35)
Transportation and warehousing	436	41.9%	\$ 35,814	\$ (159)
Educational services	1,274	122.4%	\$ 34,658	\$ (188)
Agriculture, forestry, fishing and hunting	34	3.3%	\$ 32,700	\$ (237)
Retail trade	1,397	134.2%	\$ 30,475	\$ (292)
Arts, entertainment, and recreation	224	21.5%	\$ 29,313	\$ (321)
Other services, except public administration	657	63.1%	\$ 27,290	\$ (372)
Accommodation and food services	1,041	100.0%	\$ 22,288	\$ (497)
Total	5,563	47.4%		

Waivers

As proposed, the statute referred to the County Planning Board, does not include a provision for granting waivers from the affordable housing regulations. The City of Kingston Planning Board in its comments, while concurring that a citywide mandate for affordable housing was necessary, provided a process for granting waivers. (see below)

REQUIRED AFFORDABLE UNITS IN PROPOSED RESIDENTIAL DEVELOPMENTS*

Affordable Units Required
0 unless developer proposes
1
2
3 or 10%**

- * Includes both new construction and Adaptive Re-Use
- ** In cases where there are 30 units or more, the Planning Board will mathematically round the 10% rule using standard method. For example, 33 units x 10% 3.3 Round down to 3 Units; 35 units x 10% 3.5 Round up to 4 Units.

Required Modifications

The Ulster County Planning Board does not favor a waiver from the affordable housing requirement. Should the City feel that a process of waivers is needed it should not be applied as broadly as suggested by the planning board with perhaps applicable to ten or fewer units and only related to proposals that are for homeownership. Proposals for rental units should not be eligible for waivers. Additionally, if a waiver is granted consideration of a fee to replace the lost units should be considered. Such a fee can be considered as similar to that authorized by the State for the preservation of open space and based on the median cost of housing. The fee would go into an escrow account as part of a community affordable housing development fund.

Density Bonuses – Advisory Comment

A common practice associated with inclusionary affordable housing provisions is the recognition that to meet affordability goals the community may need to grant a density bonus as part of making a project viable. This can take the form of allowing an applicant an additional market-rate unit for each affordable unit they propose above the minimum set aside. This can be amended to suit the underlying density of the district in which a project is proposed. The Board strongly supports these tradeoffs and would support granting this flexibility to the planning board to achieve additional affordable units.

Choice of Tenant

The standard proposed gives the property owner or their representative the discretion to choose their tenants.

Advisory

This should be tempered with an understanding that the selection of tenants will need to meet fair housing standards, and where a larger number of affordable units are available, the community may wish to hold a lottery of eligible households that represent community needs such as the "essential worker" that has now entered our vocabulary.

Site Plan Revocation

The City, in its standards for affordable housing, has put in place whereby site plans can be revoked for non-compliance with the affordable housing standards, both via city initiated auditing process as well as from a review requested from members of the public.

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Advisory Comment

The right to review compliance from both the City and public's point of view is supported, but it is unclear what the fallout to tenants would be if a site plan from an already inhabited site is revoked. An alternative such as a fine for a violation would seem to be a better approach and would not put existing tenants in jeopardy.

Meeting the Greater Housing Need

The City has a strong track record of working with developers and community groups to secure housing to meet community needs including the most recent formation of a land bank and the effort associated with rental vacancy rates. As pressure on affordability intensifies, the City should continue to embrace a broader affirmative action goal toward meeting housing needs. In so doing it can look again to its comprehensive plan and begin to identify those areas of the City where zoning and infrastructure can come together to create affordable housing opportunities; examine its landholding for these opportunities; and press its boards, commissions, and neighborhood groups into service to find solutions. Just as the City has been a leader in the climate-smart movement, the City should strive to lead in a Housing Smart way and urge those communities around it to accept this challenge.

Reviewing Officer

Robert A. Leibowitz, AICP Principal Planner

FINAL ACTION REPORT FORM

Per GML 239-m and -n FINAL ACTION REPORTS ARE REQUIRED TO BE SUBMITTED WITHIN THIRTY DAYS AFTER FILING

Complete the local agency final action box, add the local file number, include any required submittals, and sign the form



UCPB Date Stamp

Name	e of Project: Resolution 86 of 2	2020	Referral Number	er: 2020043
UCPE	B Decision: Required Modifica	ations		
		Required Submitt	als:	
3	Cal Agency Final Action: Approve Disapprove Disapprove No:	Within thirty days a report of the final a that acts contrary to disapproval of a pro	fter final action, the referring bootion it has taken with the UCP or a recommendation of modificoposed action shall set forth thuch report attached to this form	B. A referring body ations or e reasons for the
County Planning Board Decision - Reviewed no County Impact		Local File Numbe	L	
		Municipality:	Kingston City	×
	Concurs with County Planning Board Modifications or Disapproval	Referring Agency	Local Governing Body	
30	Contrary to County Planning Board	Type of Referral:	Zoning Statute Amendme	nt
	Modifications or Disapproval (see	Name of Applicar	nt: City of Kingston	
	required submittals if checked)	Project Location:	Mixed Use Overlay Distric	t/City Wide
	equired Submittals Attached esolution Attached	Description:	Zoning amendment - afforda amendments to the Mixed-U	_
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			Original Review Date:	6/3/2020
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Need H	elp? Telephone: 340-3340			